

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-162

October 20, 2003

MAINE PUBLIC UTILITIES COMMISSION  
Procedures for Conservation Program  
Planning

ORDER ADOPTING  
CONSERVATION PROGRAM  
PLAN

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WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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**I. SUMMARY**

We adopt a Maine Energy Efficiency Program Plan to govern the operation of energy efficiency programs in accord with 35-A M.R.S.A. §3211-A. We direct Commission Staff to develop a plan for the orderly transition from Interim programs to full-scale programs.

**II. BACKGROUND**

Public Law 2001, ch. 624 (The Conservation Act or the Act),<sup>1</sup> enacted during the second session of the 120<sup>th</sup> Legislature, establishes the terms that govern an energy conservation program for Maine. Section 4 of the Act, codified at 35-A M.R.S.A. § 3211-A, directs the Maine Public Utilities Commission (Commission) to “develop and, to the extent of available funds, implement conservation programs...” Title 35-A M.R.S.A. §3211-A contains a wide range of goals and criteria that govern the selection of conservation programs and requires the Commission to establish definitions, procedures, and criteria before implementing programs.

On April 8, 2002, we issued an Order Extending Utility Energy Efficiency Programs, which directed T&D utilities to continue operating their existing energy conservation programs in a manner consistent with recent program operations until such time as they were directed to do otherwise by the Commission. Maine Public Utilities Commission, Interim Electric Energy Conservation Programs, Docket No. 2002-161. This was further clarified in an Advisory Opinion Regarding CMP’s Existing Conservation Programs, issued on July 8, 2002. Docket No. 2002-161.

On June 13, 2002, we issued an Order Establishing Interim Conservation Programs. Docket No. 2002-161. By this Order, implemented a number of interim conservation programs pursuant to Section 7 of The Act. We also stated that we would consider which of the utility programs to continue funding through the Conservation Program Fund, after we implemented the Tier-1, Tier-2, and Tier-3 interim programs. To avoid delay in implementing conservation programs, interim programs do not have to satisfy the requirements for on-going programs required by 35-A M.R.S.A. § 3211-A.

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<sup>1</sup> The Conservation Act, and the Commission Orders referenced here may be found on the Electric Conservation Activities section of the Commission’s web page (<http://www.state.me.us/mpuc>).

Interim programs must terminate no later than December 31, 2003. We have since developed and implemented interim programs. Although not required by law, to the extent possible, we have designed these programs to satisfy the requirements of 35-A M.R.S.A. § 3211-A.

On July 23, 2002, we issued an Order Establishing Procedure and Schedule for Conservation Programs Implemented Pursuant to P.L. 2001, ch. 624. *Maine Public Utilities Commission Procedures for Conservation Program Planning*, Docket No. 2002-162. We stated we would decide funding and economic potential issues, and then decide upon a program plan for on-going programs after concluding the rulemaking to define cost effectiveness. We directed any interested persons to file economic potential studies by September 10, 2002. A technical conference was held on October 2 to discuss all economic potential studies submitted by interested persons. The Office of Public Advocate submitted the only studies on conservation potential.

On August 20, 2002, we opened a rulemaking to revise Chapter 380 and to define the terms “low income consumers,” and “small business consumers” for conservation program purposes, as required by 35-A M.R.S.A. § 3211-A (1)(B)(1) and (2). *Maine Public Utilities Commission Electric Energy Conservation Programs* (Chapter 380) Docket No. 2002-473. The revision also sought to establish the cost effectiveness criteria that will govern the Commission’s selection of conservation programs, as required by 35-A M.R.S.A. § 3211-A (2). A final Rule was adopted on November 6, 2002 and went into effect on December 4, 2002.

On September 24, 2002, the Commission issued an Order Establishing Goals, Objectives, and Strategies for Conservation Programs Implemented Pursuant to P.L. 2001, ch. 624. Docket No. 2002-162. In that Order, the Commission established goals, objectives, and strategies as required by 35-A M.R.S.A. § 3211-A (2). These goals, objectives, and strategies govern the plan for on-going programs that will now be called the Maine Energy Efficiency Program Plan.

On September 26, 2002, the Commission issued a request for input on the design of energy efficiency programs to solicit comments from any interested parties on programs that should be included in the portfolio of on-going programs. Docket No. 2002-162. The Commission requested that parties proposing specific programs for consideration include summaries of the programs describing the target market, goals and objectives, market barriers to overcome, measurable outcomes, and estimated program costs. The Commission also requested the inclusion of cost effectiveness estimates for proposed programs along with their effectiveness in meeting the overall goals, objectives, and strategies established in its September 24, 2002 Order. In addition parties were asked for references to similar programs in operation elsewhere. The Commission requested written comments by October 21, 2002, and held a technical conference on November 5, 2002. Twenty-nine parties filed comments in writing or responded orally at the technical conference.

On April 4, 2003, the Commission decided to assess all T&D utilities in the state at the statutory maximum rate, 1.5 mils/kWh, for funding conservation programs. *Order on Conservation Program Funding*, Docket No. 2002-162.<sup>2</sup> The Commission found that the potential for energy efficiency is relatively proportional across T&D service territories in Maine. The Commission also found that the achievable potential energy savings is several times greater than the savings that could be achieved at the maximum funding level, and inferred a legislative intent in such an instance to fund at the maximum level.

The Staff issued a report and proposed Maine Energy Efficiency Program Plan for comment and review on September 11, 2003 in Docket No. 2003-517. The Staff report summarized the comments of all parties on the design and portfolio of on-going energy efficiency programs. The Staff report and Plan reflected the input of parties responding to the September 26, 2002 request for information and to earlier Commission findings and orders made regarding program goals, objectives, and strategies, program funding levels, and cost effectiveness thresholds. The Commission invited comments on the Staff report and proposed Plan, and received comments from six parties. The comments were considered at our October 9, 2003, deliberative session. The following section briefly describes the comments.

### III. COMMENTS OF THE PARTIES

Central Maine Power Company (CMP) commented on six aspects of the Plan. First, CMP states there is little emphasis on promoting economic development and environmental stewardship in the Plan. Second, it sees a mixed message with respect to market transformation. If efforts to transform markets are successful, program budgets should shrink rather than expand as they do in the Plan. Third, CMP comments that there should be more detail regarding the cost/benefit analysis and that the Staff has leaned too heavily on the work of the Office of Public Advocate's consultant. As a fourth point, CMP believes there should be more detail on how programs will be evaluated. Fifth, it believes that the plan should emphasize efficiency over conservation. Finally, CMP agreed its "Bundle Up" water heater wrap program should be continued but did not agree to the \$150,000 budget level proposed by the Staff.

Energy Solution Partners (ESP) suggested that the plan include a cost effective LED Exit Sign Retrofit Program similar to one formerly run in the CMP and MPS service territories.

Maine Public Service Company (MPS) requests to discontinue its water heater wrap program. MPS has 77 water heater wraps remaining in stock and requests that it be allowed to deplete the remaining inventory.

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<sup>2</sup> For those utilities not yet assessed at the statutory maximum (all but CMP), we decided to phase-in the increased assessment, beginning at 0.6 mils/kWh for the first year, and increasing by 0.2 mils/kWh per year until the statutory maximum is reached.

Northeast Energy Efficiency Partnerships Inc. supports the plan and looks forward to Efficiency Maine's increased participation in regional initiatives.

The Office of the Public Advocate (OPA) made several comments through its consultant. OPA questioned spending on general education with limited budgets. OPA asks whether the commercial and industrial program and small business programs are "lost opportunity" or retrofit programs. OPA recommends the consolidation of the number of competitively solicited contractors to reduce administrative costs and also recommends the establishment of efficiency baselines before programs are implemented. The Public Advocate recommends the Low Income Program include retrofits of all efficiency opportunities available at the time of appliance replacement. OPA also recommends that the Residential Efficient Products Program remain focused on lighting and comments that the program cost effectiveness estimated by the Staff may be too low.

Schools Air Monitoring Project for Learning & Energy Efficiency (SAMPLE<sup>2</sup>) argues the Staff report and Plan have mischaracterized the SAMPLE<sup>2</sup> program. First, SAMPLE<sup>2</sup> contends the energy sub-metering and other energy related measurements included in the program will accomplish the program's efficiency objectives. Second, air quality monitoring may reveal new opportunities for energy savings. Third, SAMPLE<sup>2</sup> asserts the program's air monitoring technologies will assist building operators in applying techniques they learn through the Building Operator Certification (BOC) Program. In addition, SAMPLE<sup>2</sup> claims the Staff has ignored the benefits associated with sharing of information with other organizations such as the American Lung Association and the Minnesota State Energy Office.

#### **IV. DECISION**

##### **A. Program Plan**

In light of the above, we have reviewed the Staff's proposed full scale program plan and find it complies with our September 24, 2002 Order in this Docket Establishing Goals, Objectives, and Strategies for Conservation Programs Implemented Pursuant to P.L. 2001, ch. 624. We adopt the plan as proposed by Staff along with the minor modifications, and make no substantive changes based on the comments received.

We will allow Central Maine Power to continue its Bundle Up program, but agree with the Staff's recommendation regarding budget and advertising issues. Centralized control of the program budget and advertising messages will assist in the efficient administration of the conservation program fund and the coordinated implementation of a statewide efficiency program. We will make no further changes to the program based on other comments made by CMP. The programs provide environmental benefits. Each MWh of energy saved through this program avoids the emission of 4.9 lbs. of sulphur dioxide, 1.7 lbs. of nitrogen oxides, and 1393 lbs of carbon dioxide. The program fosters economic development through the use of Maine

based contractors to implement programs whenever possible. CMP's observations regarding the lack of detail on the cost/benefit analysis and program evaluation are well taken. We expect these details will become more apparent with the development of detailed program implementation plans once we have approved this over-all plan.

We will not adopt the programs recommended by ESP and SAMPLE<sup>2</sup>. The LED technology that would be promoted in the ESP program is already included in our small business, and existing schools program. Though we agree the technology promoted in the SAMPLE<sup>2</sup> program has potential benefits to student health, its primary goal is not to increase the efficiency of energy use. Our efforts at improving efficiency in school buildings are currently focused on the Maine High Performance Schools Program and the Existing Schools Energy Efficiency Program.

We agree with the OPA that program budgets are limited, but we believe that general education programs should be included as part of an overall program whose focus is market transformation. We have adopted OPA's recommendation to bundle measures when replacing appliances in the Low Income Appliance Replacement Program, and will also make lighting the primary focus of our Residential Efficient Appliance Program. While we agree conceptually with OPA that an efficiency baseline would be helpful in measuring program success, we believe it is more important to not delay program implementation in order to establish one. We will develop more detailed program evaluation plans to ascertain the level of market transformation and we will if necessary, conduct the baseline surveys of the type suggested by OPA.

#### B. Transition

Title 35-A M.R.S.A. § 3211-A (3) expresses a clear preference for the Commission to select program service providers through a competitive bidding process. We have used such a process to select the providers of four of our interim programs. The Conservation Act also requires the termination of all interim programs by December 31, 2003. As such, the contracts with all service providers conclude on December 31, 2003. Since the interim programs were structured wherever possible to comply with the Legislature's requirements for on-going programs, a number of the programs in the Plan we adopt will be similar to those currently being operated as interim programs. Because we find that program continuity is essential for the efficient and effective delivery of conservation programs during the transition from interim to ongoing programs, we instruct the Staff to develop a transition plan. The transition plan may temporarily extend contracts for interim program implementation to the implementation of full-scale programs to better manage the process of new contractor selection and program transition.

Accordingly, we

**ORDER**

1. That the attached "Maine Energy Efficiency Program Plan" be adopted as the guiding document for the implementation of Maine's energy conservation programs as required by 35-A M.R.S.A. § 3211-A; and
2. That the Staff develop a plan for the orderly transition from interim to on-going programs for our review.

Dated at Augusta, Maine, this 20<sup>th</sup> day of October, 2003.

**BY ORDER OF THE COMMISSION**

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
                                                 Diamond  
                                                 Reishus

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.